

1 THE HONORABLE JOHN C. COUGHENOUR
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7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

v.

12 MATTHEW R. SCHLEY,

13 Defendant.

CASE NO. CR19-0247-JCC

ORDER

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15 This matter comes before the Court *sua sponte*. On November 27, 2019, Mr. Schley was
16 charged by indictment with one count of Felon in Possession of a Firearm in violation of 18
17 U.S.C. 922(g)(1). (Dkt. No. 13.) After a continuance, trial was scheduled for June 15, 2020. (See
18 Dkt. No. 23.) As a result of the COVID-19 pandemic's impact in this district, the Government
19 moved to vacate the trial date and set a status conference to determine an appropriate trial date.
20 (Dkt. No. 37.) The Court granted the motion, scheduled a status conference for August 11, 2020,
21 and held that the time between the date of the Court's order and the date of the status conference
22 was an excludable period under the Speedy Trial Act. (Dkt. No. 44.) As a result of the
23 pandemic's continued impact in this district, the Court continued the status conference until
24 September 29, 2020, (Dkt. 49), and then to October 6, 2020, (Dkt. No. 51).

25 Over the past six months, the COVID-19 pandemic has significantly impacted the
26 Court's operations. (See General Orders 01-20, 02-20, 07-20, 08-20, 11-20, 13-20, 15-20 each of

1 which the Court incorporates by reference.) Specifically, the pandemic has rendered the Court
2 unable to obtain an adequate spectrum of jurors to represent a fair cross section of the
3 community, and public health guidance has impacted the ability of jurors, witnesses, counsel,
4 and Court staff to be present in the courtroom. (*See generally id.*) Recently, conditions have
5 improved such that the Court can resume a limited number of in-person criminal jury trials at the
6 courthouse. Chief Judge Martinez has concluded that:

7 [F]or the foreseeable future, it will be possible to proceed with only one in-person
8 criminal jury trial at a time at each of the district's two courthouses. The order in which
9 pending criminal cases will proceed to trial will be determined by the Court in
consultation with the Federal Public Defender's Office and the United States Attorney's
Office.

10 W.D. Wash. General Order 15-20 (Oct. 2, 2020) at 2. Pursuant to these provisions of General
11 Order 15-20, the Court SETS this matter for trial on November 30, 2020. Further, the Court
12 FINDS the ends of justice served by continuing trial to November 30, 2020 outweigh
13 Defendant's and the public's best interests in a speedy trial. *See* 18 U.S.C. § 3161(h)(7)(A). The
14 reasons for this finding are:

- 15 1. The COVID-19 pandemic has rendered the Court unable to obtain an adequate
16 spectrum of jurors to represent a fair cross section of the community, which would
17 likely make proceeding with an earlier trial impossible or, at a minimum, would result
18 in a miscarriage of justice. *See* 18 U.S.C. § 3161(h)(7)(B)(i).
- 19 2. Public health guidance has impacted the ability of jurors, witnesses, counsel, and
20 Court staff to be present in the courtroom. Therefore, proceeding with an earlier trial
21 would likely be impossible. *See* 18 U.S.C. § 3161(h)(7)(B)(i).

22 Accordingly, the Court ORDERS:

- 23 1. Trial in this matter is scheduled for November 30, 2020.
- 24 2. The pretrial motions deadline is October 19, 2020.
- 25 3. All pretrial filings—including trial briefs, motions in limine, proposed voir dire,

- 1 proposed jury instructions, and proposed verdict forms—must be submitted no later
2 than Monday, November 16, 2020.
- 3 4. The period from June 10, 2020, when the Court first granted a continuance based on
4 the impact of COVID-19, until November 30, 2020, is an excludable time period
5 under 18 U.S.C. section 3161(h)(7)(A).
- 6 5. The status conference scheduled for October 6, 2020 is VACATED.
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8 DATED this 5th day of October 2020.

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12 John C. Coughenour
13 UNITED STATES DISTRICT JUDGE